



BRYAN MORALES, a Minor, are residents/citizens of San Antonio, Bexar County, Texas, within the San Antonio Division of the Western District of Texas.

4. Each of the relevant acts complained of occurred at the Brooke Army Medical Center, Fort Sam Houston, Bexar County, Texas, within the San Antonio Division of the United States District for the Western District of Texas.

#### **ADMINISTRATIVE CLAIM**

5. Plaintiffs, SONIA MATA ROSALES, Individually, and As Guardian of RAUL MORALES, An Incapacitated Person, and NEREYDA AGUIREE FLORES, As Next Friend of RAUL BRYAN MORALES, a Minor, have filed their original Claims for Damages with the Department of the Army, Brooke Army Medical Center, Office of the Center Judge Advocate, 3851 Roger Brooke Drive, Fort Sam Houston, Texas 78234-6200, which were received by the Department of the Army on November 20, 2013 and January 7, 2014, respectively. The Department of the Army has denied the Plaintiffs' administrative Claims on June 25, 2014. Plaintiffs have exhausted their administrative remedies.

#### **SERVICE**

6. Service of citation may be had upon the Defendant, UNITED STATES OF AMERICA, by serving its agent, Robert Pitman, United States Attorney for the Western District of Texas, at his office located at 601 NW Loop 410, San Antonio, Bexar County, Texas 78216, and by sending a true and correct copy of this Complaint by Certified Mail, Return Receipt Requested, to The Honorable Eric Holder, Attorney General of the United States of America, The Department of Justice, 10th and Constitution N.W., Room B-112, Washington, D.C. 20530.

#### **AGENCY**

7. The Defendant, UNITED STATES OF AMERICA, acting by and through its agents, servants and/or employees of the Department the Army, owns and operates the Brooke Army Medical Center located in Fort Sam Houston, Bexar County, Texas. Said facility provides healthcare services for persons such as Plaintiff, RAUL BRYAN MORALES.

### **FACTUAL BACKGROUND**

8. Plaintiff, RAUL MORALES is a 31-year-old man who was born on April 5, 1982. On December 3, 2011, RAUL MORALES sustained multiple injuries when he was a pedestrian hit by a private motor vehicle. Those injuries included a traumatic below the knee amputation which occurred at the scene. He was taken by EMS to Brooke Army Medical Center Emergency Department where he underwent several emergency surgeries, including an emergency craniotomy for an epidural hematoma. Following a lengthy hospitalization, RAUL MORALES was discharged for rehabilitation on January 20, 2012. On April 17, 2012, RAUL MORALES underwent a right below the knee amputation revision with a heterotopic ossification excision. He tolerated the procedure well, and was taken to the PACU in stable condition. On April 17, 2012, at 1318, he was admitted to Four (4) West from the PACU. His mother, SONIA MATA ROSALES, stayed with him overnight and assisted him with every meal. On April 18, 2012, at 1040, RAUL MORALES was given Oxycodone for pain. He was also using Dilaudid via PCA pump for pain control. At 1245, RAUL MORALES was noted to be asleep and that his mother left the room to run a brief errand. At 1320, his lunch tray was placed in front of him, even though his mother was not there at the time and there was no one else to assist him with his meal. At 1358, a Code Blue was initiated when RAUL MORALES was found unresponsive in his bed. He was not breathing and had no pulse, and his initial rhythm was determined to be only pulseless electrical activity. CPR was initiated, and ACLS interventions were also initiated with

the return of a spontaneous circulation at 1403. RAUL MORALES was intubated and transferred to the ICU at 1415. A mass of partially chewed food was discovered filling the oropharynx, completely obscuring the epiglottis and vocal cords, and totally blocking his airway. A CT of his chest showed aspiration pneumonitis with retained debris in the trachea and proximal left main stem bronchus. Following the Code, RAUL MORALES neurologic status did not return to baseline and it was determined that he had suffered a severe anoxic brain injury proximately caused by total blockage of his airway for an unknown period of time. RAUL MORALES sustained a significant permanent brain injury, and is now dependant upon his mother as the Court Appointed Guardian and Caregiver.

**NEGLIGENT ACTS AND/OR OMISSIONS**

9. Plaintiffs' would show that the Defendant, UNITED STATES OF AMERICA, acting by and through its agents, servants and/or employees at Brooke Army Medical Center, was negligent in the health care and treatment provided to Plaintiff, RAUL MORALES, and that such negligence was a direct and proximate cause of the injuries and damages suffered by the Plaintiffs herein. Such negligent acts and/or omissions include, but are not limited to the following:

- (A) Negligently failing to timely and properly provide RAUL MORALES, with required nursing care and observation on April 18, 2012, in accordance with the requisite standards of care;
- (B) Negligently failing to take proper precautions to prevent RAUL MORALES, from choking a respiratory compromise during an unsupervised meal on April 18, 2012, in accordance with the requisite standards of care; and
- (C) Failing to act as physicians, nurses, and other healthcare providers of ordinary prudence would have acted under the same or similar circumstances.

10. Each and all of the above foregoing acts of the Defendant, both of omission and commission, were negligent and constituted negligence, and each and all were a proximate cause of the injuries and damages sustained by the Plaintiffs herein.

### **DAMAGES**

11. As a result of the negligence of the physicians and staff at Brooke Army Medical Center, RAUL MORALES has been caused to suffer physical pain, mental anguish, physical impairment, and physical disfigurement in the past, and will, in reasonable medical probability, continue to sustain these injuries in the future. Additionally, RAUL MORALES has incurred medical, hospital, and therapy expenses in the past, and will, continue to incur these expenses for the rest of his life. RAUL MORALES has also sustained a loss of earnings in the past, and will, in reasonable medical probability, continue to sustain these losses in the future. Plaintiff, SONIA MATA MORALES, Individually, in her capacity as Court Appointed Guardian of the Person and Estate of RAUL MORALES, an Incapacitated Person, is entitled to recover damages for the injuries set out above for the use and benefit of her son, RAUL MORALES.

12. Plaintiff, SONIA MATA MORALES, in her individual capacity, has sustained a loss of earnings and a loss of household services in the past, and will, in reasonable probability, continue to sustain these losses in the future.

13. Plaintiff, NEREYDA AGUIREE FLORES, As Next Friend of RAUL BRYAN MORALES, the Minor child of RAUL MORALES, an Incapacitated Person, has been caused to suffer grief and anguish, the loss of love, affection, comfort, support, companionship, care, society, advice, counsel and financial support from RAUL MORALES, as he would have provided, but for the negligence of the physicians and staff at Brooke Army Medical Center. As Next Friend of RAUL BRYAN MORALES, Plaintiff, NEREYDA AGUIREE FLORES, is

entitled to recover damages in her representative capacity for the use and benefit of RAUL BRYAN MORALES, a Minor.

**DAMAGE LIMITATIONS**

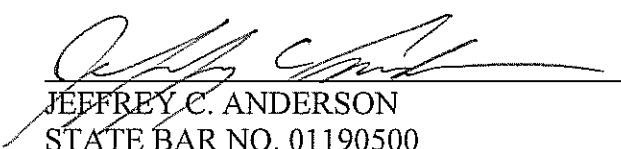
14. Plaintiffs, believe and allege that the damages caused by the Defendant, UNITED STATES OF AMERICA'S, acts of omission and/or commission have injured the Plaintiffs in an amount within the jurisdictional limits of this Court.

15. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendant herein be duly cited to appear and answer herein, and that upon final hearing of this suit, Plaintiffs have and recover a judgment from the Defendant in an amount within the jurisdictional limits of this Court, together with post-judgment interest as allowed by law, plus reasonable costs of Court, and for such other and further relief, both general and special, in law and equity, to which the Plaintiff(s) may show themselves to be justly entitled.

Respectfully submitted,

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